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DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-216987

DATE: February 7, 1985

MATTER OF: Magnet Electrical Contractors

DIGEST:

Bidder's failure to bid on required alternate item which was selected for award by procuring activity renders bid nonresponsive.

Magnet Electrical Contractors (Magnet) protests the award of a contract to Stark Construction Co. (Stark) for alternate item 1 for the installation of roadway lights under solicitation No. 627-29-84 issued by the Veterans Administration Medical Center (VA), Newington, Connecticut. Magnet asserts that it should have been awarded a contract for alternate item 2 at \$12,850 and that the additional work under alternate item 1 should have been contracted for separately.

We find the protest without merit.

The solicitation schedule included two alternates, item 1 for the entire project, and item 2 for the same project less certain demolition and excavation work. The lesser alternate was apparently included because VA had some question about the availability of sufficient funding for the entire project. The solicitation included a note which indicated that depending on the availability of funds, a single award would be made on either item 1 or item 2. The solicitation required bidders to submit bids for each of the two alternate items and included the Federal Acquisition Regulation provision found at 48 C.F.R. § 52.214-18 (1984), which states that when a solicitation requires bidding on all items, failure to do so will disqualify the bid.

Stark submitted a bid of \$23,372 for item 1, and a bid of \$19,428 for item 2. Magnet submitted a bid of \$12,850 for item 2, with no bid for item 1. The VA determined that it had sufficient funds available to pay for the entire project as listed under item 1, determined that Magnet's bid on item 2 only was nonresponsive, and made award to Stark.

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Magnet contends that it would be cheaper for the VA to award Magnet a contract for item 2 and to contract separately for the additional work which is encompassed under item 1. In a protest to VA after bid opening, Magnet offered to perform this additional work for \$3,944 (the difference between Stark's item 1 and item 2 prices). This "offer" by Magnet is late and may not be considered by the VA. FAR, 48 C.F.R. § 14.304-1(a). Once VA determined that it had sufficient funds to award on the alternate for the entire project, it properly rejected Magnet's bid. Magnet, choosing to bid as it did, ran the risk that if the contracting activity elected to accept alternate item 1, its bid would be nonresponsive to that alternate. See Casson Construction Company, Inc., B-198746, Oct. 24, 1980, 80-2 C.P.D. ¶ 318; Hoyer Construction Co., Inc., B-181974, Jan. 17, 1975, 75-1 C.P.D. ¶ 36; 45 Comp. Gen. 682 (1966).

In Magnet's January 17, 1985, comments to our Office on the VA report, Magnet alleges that it has had prior difficulties in contracting with the VA Medical Center at Newington. Magnet recounts problems that it has encountered under two prior solicitations, one of which was canceled after bid opening in June 1984, and the resolicitation of that requirement, on which Magnet asserts that it was the low bidder, but claims that it has not received any information from the VA regarding the award. These allegations are untimely with respect to the first solicitation since they were not raised until 7 months after Magnet was notified of its basis for protest. 4 C.F.R. § 21.2(b)(2) (1984). The allegation concerning the second solicitation appears to be premature since no action has been taken by the VA adverse to Magnet.

In any event, these prior solicitations have no relevance to the present protest. Each procurement action is a separate transaction and the agency action taken during the conduct of one procurement is not relevant to the agency conduct of a different procurement. Channel Disposal Co., Inc., B-215486, Aug. 17, 1984, 84-2 C.P.D. ¶ 191.

We deny the protest.

for 
Comptroller General
of the United States